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MONTANA LEGISLATIVE HISTORY

Chapter 132 19 55

Bill H 193 S _____ Original bill & history ____C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Jan 25	✓ C	Hearing Date(s) _____	____C
_____	____C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out Jan 25	✓ C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

CHAPTER NUMBER 29
EFFECTIVE DATE: 02/06/95—SECTIONS 5-7
EFFECTIVE DATE: 07/01/95—SECTIONS 1-4

HB 172 INTRODUCED BY RANEY, ET AL.

REQUIRE THAT FISH, WILDLIFE, AND PARKS COMMISSION AND DEPARTMENT OF FISH, WILDLIFE, AND PARKS PLACE HIGHEST PRIORITY FOR MAINTENANCE, IMPROVEMENT, OR DEVELOPMENT OF A FISHING ACCESS SITE OR STATE PARK ON WEED CONTROL AND STREAMBANK RESTORATION FOR SITE OR PARK

1/13	INTRODUCED		
1/13	FIRST READING		
1/13	REFERRED TO APPROPRIATIONS		
1/27	HEARING		
2/21	TABLED IN COMMITTEE		
3/24	MISSED TRANSMITTAL DEADLINE FOR 67TH DAY DIED IN COMMITTEE		

HB 173 INTRODUCED BY EWER, ET AL.

ALLOW DEPARTMENT OF JUSTICE TO PROVIDE CERTAIN GAMBLING INFORMATION TO GAMBLING REGULATORY AGENCIES OF JURISDICTIONS OUTSIDE THE STATE

BY REQUEST OF THE DEPARTMENT OF JUSTICE

1/13	INTRODUCED		
1/13	FIRST READING		
1/13	REFERRED TO JUDICIARY		
1/25	HEARING		
1/26	COMMITTEE REPORT—BILL PASSED		
1/28	2ND READING PASSED	89	11
1/30	3RD READING PASSED	86	12
	TRANSMITTED TO SENATE		
1/31	FIRST READING		
1/31	REFERRED TO JUDICIARY		
2/28	HEARING		
3/01	COMMITTEE REPORT—BILL CONCURRED		
3/04	2ND READING CONCURRED	43	0
3/06	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/07	SIGNED BY SPEAKER		
3/09	SIGNED BY PRESIDENT		
3/09	TRANSMITTED TO GOVERNOR		
3/13	SIGNED BY GOVERNOR CHAPTER NUMBER 132 EFFECTIVE DATE: 03/13/95		

HB 174 INTRODUCED BY HAGENER, ET AL.

REVISE LAW RELATING TO NOTICE TO OTHER JURISDICTIONS OF DECREES OF SEPARATION OR INVALIDITY OF MARRIAGE

1/13	INTRODUCED		
1/13	FIRST READING		
1/13	REFERRED TO JUDICIARY		
1/24	HEARING		
1/25	COMMITTEE REPORT—BILL PASSED		
1/26	2ND READING PASSED	99	0
1/27	3RD READING PASSED	94	0
	TRANSMITTED TO SENATE		
1/28	FIRST READING		

{Tape: 1; Side: A}

HEARING ON HB 173

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, presented HB 173 which is intended to enable the state of Montana to provide information to other agencies in states which regulate the gambling industry. Because many who desire to be involved in Montana's gambling industry are from out of state, it is imperative that they be able to communicate with colleagues in other states. This bill empowers the justice department to provide information to other states so that they will reciprocate.

Proponents' Testimony:

Beth Baker, Department of Justice, presented written testimony from the justice department in support of the bill. **EXHIBIT 1**

Dennis Casey, Gaming Industry Association, said the association, which is made up of operators, vendors and manufacturers of gambling equipment in Montana, strongly supports HB 173.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. BRAD MOLNAR wanted to know if the information being disclosed complies with the laws of the jurisdiction to which it is being disseminated.

Ms. Baker replied that they will ask the requesting agency to provide the authority under which they can receive the information.

REP. MOLNAR asked if a lawsuit would result if the authority on either side were challenged by the person or entity referred to in the information being disclosed.

Ms. Baker answered that if they were challenging the authority of the agency to receive it, Montana would not get involved. If they were to challenge Montana for disclosure, there would be a possible law suit.

REP. MOLNAR wondered if Montana would just believe the inquiring agency when they state the authority under which they are requesting the information.

Ms. Baker replied that Montana won't believe them unless they supply the authority and it will be verified.

REP. LIZ SMITH asked how many applicants from out of state are processed each year.

Ms. Baker answered, "Approximately 50." Currently there are applicants from Nevada, Oregon, Washington, Illinois, Canada, Australia, Japan and Germany.

REP. SMITH asked if this would also allow transfer information regarding their tax reporting.

Ms. Baker answered this was correct and described how this would work.

REP. WILLIAM BOHARSKI wanted to know what kinds of rules the justice department envisioned adopting to implement the statutory change if the bill were passed.

Ms. Baker did not think the department would need any rules to implement this. It is a simple cooperative memorandum of understanding with the other states which would set forth the terms of disclosure.

REP. BOHARSKI specified line 26 as indicating that some parameters might be required for how requests would be approved/ disapproved.

Ms. Baker said the Attorney General is required to approve foreign law enforcement agencies for receipt of criminal justice information. It is a simple process and trouble is not anticipated with it.

REP. SHIELL ANDERSON, looking at lines 24 through 26, asked if that allows Montana to exchange information with other states which cannot be disclosed within the state due to restrictions such as the Criminal Justice Information Act.

Ms. Baker described to whom and under what conditions this information can be disclosed as allowed by current law. Generally the information would be disclosed for law enforcement purposes.

REP. ANDERSON clarified that this disclosure would not extend to the general public in other states. He wanted to know if the agencies receiving the disclosure would be able to then disclose it to the public.

Ms. Baker replied that the purpose of the disclosure primarily is for licensing applications. The agreement entered into with the other states provides that the information may not be disclosed beyond the agency without a court order or consent of the providing agency.

Closing by Sponsor:

REP. EWER reiterated the point that there is a process in place through current law providing for the appropriate and proper dissemination regarding the criminal justice system. The intent of this bill is to augment that to include gambling.

HEARING ON HB 208

Opening Statement by Sponsor:

REP. JOHN COBB, HD 50, said HB 208 is basically a disclosure of information change which would impact the gambling industry by allowing disclosure of illegal activity just as now exists for other violations such as a DUI.

{Tape: 1; Side: A; Approx. Counter: 24.2}

Proponents' Testimony:

Beth Baker, Department of Justice, supported the bill by stating that it is consistent with the open records policy of state government. The bill would make the gambling division's records consistent with the rest of the agency; i.e., unless it is confidential criminal justice information or protected by some other privacy interests, the records are open to the public.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. JOAN HURDLE desired confirmation that HBs 208 and 173 coordinate.

Ms. Baker said that there would not be any conflict.

Closing by Sponsor:

REP. COBB closed.

HEARING ON HB 177

Opening Statement by Sponsor:

REP. DEB KOTTEL, HD 45, described HB 177 as changing the manner of performing court administration. She explained how cases ar currently processed in the various levels of the court system. The bill intends to cut out one layer of trial which would redu costs through establishing justice courts as courts of record. Currently no transcript is taken of what occurs in a justice

REP. CURTISS asked where the DNA samples are currently being sent and if there are adjacent states who might use the lab for this testing if it were here.

Mr. Unger said adjacent states are implementing this. Contracting with other states is not currently being done. Most cases require expert testimony which requires additional cost for travel to perform that part of the service.

{Tape: 2; Side: B; Approx. Counter: 32.6}

REP. HURDLE wanted to know if training and certification is included in the costs reflected in the operating costs of the fiscal note.

Mr. Unger said that was correct.

Closing by Sponsor:

REP. MASOLO closed by summarizing the need for this bill.

EXECUTIVE ACTION ON HB 173

Motion: **REP. ANDERSON MOVED HB 173 DO PASS.**

Discussion: **REP. SMITH** said she had a concern in opening the doors to additional casinos being allowed in the state though she agreed with the need for cross checking with other states and creating incentives for new businesses in the state.

REP. HURDLE said she understood that this bill was about sharing of information and not application for new businesses.

CHAIRMAN CLARK said that was correct.

REP. MC GEE wanted to look at HB 173 and HB 208 together and suggested that they examine how each one affects the other.

REP. ANDERSON said he agreed that HB 208 extends the information which would be available to the other jurisdictions in HB 173. However, the information HB 208 refers to should be available to the public anyway. He did not believe the bill would expand the information which is not available currently.

REP. SOFT asked if the bills could be combined since they address the same statute.

REP. ANDERSON said they could have at the start, but at this point nothing would be gained by combining them.

REP. DUANE GRIMES believed there would be some language change in HB 173 to make it fit. He went on to explain and felt they should be considered separately.

REP. CURTISS said it had long been recognized that organized crime as a huge stake in the gambling industry and felt that this effort would help the Attorney General's office to address problems.

Vote: **Motion carried unanimously by voice vote, 16-0.**

EXECUTIVE ACTION ON HB 208

Motion/Vote: **REP. SHEA MOVED HB 208 DO PASS. The motion carried unanimously by voice vote, 17-0.**

EXECUTIVE ACTION ON HB 198

Motion: **REP. SHEA MOVED HB 198 DO PASS.**

Motion: **REP. MC GEE MOVED TO AMEND ON PAGE 2, LINE, 2, AFTER THE WORDS, "A FEE," STRIKE "OF," INSERT, "NOT TO EXCEED $200 TO BE DETERMINED BY THE COURT."**

Discussion: **REP. ANDERSON** thought that if they amended the bill in that fashion, they would allow the courts to forget the hassle about imposing a fee on these people and wondered if the $25 minimum amount should remain so they could at least assess the $5 fee.

REP. MC GEE said it was a good point, but described his intent in raising the minimum to compensate for some of the administrative costs to probation/parole.

CHAIRMAN CLARK said that it goes to general fund.

REP. HURDLE reiterated **REP. BOHARSKI'S** concern that this money is earmarked to go to county attorneys' offices.

REP. BOHARSKI asked the sponsor to state the intent of the bill.

REP. AHNER said the intent was for the victim.

REP. GRIMES asked if there are other fees similar which apparently give the district court judge discretion to set the total cost and would they have to write administrative rules to determine what that would be.

REP. MC GEE withdrew his motion.

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL DATE 1/25/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓		
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓		
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

HOUSE STANDING COMMITTEE REPORT

January 25, 1995

Mr. Speaker: We, the committee on **Judiciary** report that **House Bill 173** (first reading copy -- white) **do pass.**

Signed: Bob Clark

Bob Clark, Chair

1-25

Committee Vote:
Yes 16, No 0.

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EXHIBIT 1
DATE 1/25/95
HB 173

DEPARTMENT OF JUSTICE
House Bill 173:
Sharing Gambling Information With Other Enforcement Agencies

Purpose

To clarify the authority of the Department of Justice's Gambling Control Division to share information with its counterparts in other states and countries.

Background

Montana law places strict limitations on the information that can be disclosed about applicants for gambling operators' licenses. Section 23-5-116 allows disclosure only of the applicant's name and address, the name of each person having an ownership interest in the business, and the types of permits requested by the applicant.

Although the statute does allow disclosure of other relevant information to federal, state, city, county, or tribal criminal justice agencies, most gambling enforcement and regulatory agencies in other states and countries do not meet Montana's strict definition of "criminal justice agency." The Montana Criminal Justice Information Act defines "criminal justice agency," in relevant part, as "any federal, state, or local government agency designated by statute or by a governor's executive order to perform as its principal function the administration of criminal justice." (MCA 44-5-103(7)(b))

The "administration of criminal justice" means "the performance of any of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. It includes criminal identification activities and the collection, storage, and dissemination of criminal justice information." (MCA 44-5-103(2))

The standard practice of gambling enforcement agencies is to enter into written agreements to set forth the circumstances under which information within each agency's possession may be shared with other agencies. The agreements ensure protection of confidential information and require a court order or written consent of the originating agency before any information may be disclosed. Because of the definition of criminal justice agency, Montana has been unable to join these standard agreements.

--over--

The Problem

Multi-jurisdictional businesses are common in the gambling industry. For example, the Gambling Control Division currently is investigating applicants based throughout the United States, as well as in Japan, Germany and Australia. Under state law, each applicant must undergo detailed review of the applicant's financial, business, and criminal history. The Department's review is hampered by the roadblocks to open exchange of information:

→ In a recent case, investigators from Montana and Colorado were both working on the same applicant from Illinois. The investigators were limited in the information they could share due to Montana's restrictive statutes.

→ The Nevada Gaming Control Board--an agency with criminal justice powers whos agents are sworn peace officers--recognizes the Montana Department of Justice as a criminal justice agency for purposes of sharing criminal justice information. Montana law does not, however, provide Nevada with reciprocal status. The result is an ineffective regulatory and enforcement structure for both states, which share many common licensees and applicants.

These barriers to open communication cost the state--and license applicants--time and money by slowing down background investigations and the overall licensing process.

Proposal

HB 173 would allow the Department of Justice to exchange information with its counterpar in other states, local and tribal governments, and foreign countries, provided the receiving agency is approved by the Attorney General and the disclosure meets the requirements of th receiving jurisdiction's governing law.

HB 173 will expedite the Department's review of out-of-state businesses that apply for gambling licenses in Montana, and will improve the state's ability to provide relevant information to other enforcement agencies.

HB 173 will not affect the vast majority of Montana-based licensees, since most of the information that is now restricted pertains to companies located outside the state. By facilitating exchange of information, the overall licensing process will be expedited and tir will not be wasted duplicating investigative work done elsewhere.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY COMMITTEE DATE 1-25-95

BILL NO. HB 173 SPONSOR(S) Rep. Ewer

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NAME AND ADDRESS	REPRESENTING	Support	Opp
Orrin Cosky	Gaming Ind. Assn	✓	
Beth Baker	Dept. of Justice	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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CS-14

requests the Chief Justice to call a retired judge to sit on the case.

Closing by Sponsor:

REPRESENTATIVE HAGENER closed on HB 175 without further comment.

HEARING ON HB 173

Opening Statement by Sponsor:

REPRESENTATIVE DAVID EWER, representing downtown Helena, House District 53, sponsored HB 173, "an act allowing the Department of Justice to provide certain gambling information to gambling regulatory agencies of jurisdictions outside the state." Nearly the entire bill is on Line 24-27, he said. This bill, if passed, would enable the State of Montana to provide information for those who are in the gambling business to other qualified entities under the jurisdiction of other states. Currently the state does not have that authority and while we are able to get information from other states, those states are unable to get information from Montana. Consequently, they were not getting reciprocity from other states. He said he had been asked in the House hearing on the bill about the process of disclosure. He said it was his understanding that the same procedures that are used to protect exchange and information with the criminal justice system, would be in place.

Proponents' Testimony:

Beth Baker, Department of Justice, said the bill was brought at their request. She read from written testimony. **(EXHIBIT 2).**

Dennis Casey, representing the Gaming Industry Association of Montana, spoke in full support of HB 173. Their association has been critical of the Gambling Control Division in the length of time it takes to process applications. This is a tool which would make the process more effective, he said.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

SENATOR LARRY BAER asked **REPRESENTATIVE EWER** about the disclosure of requested information because he noted there was nothing in the bill that would require a reciprocal disclosure from a party requesting like information. He wondered if he would be adverse to adding something to the bill that would give such disclosure conditioned upon reciprocal disclosure or an equal dignity. **Beth Baker** answered the question. She said they did not think the bill needs to require those stipulations because they are presently allowed under Montana law to receive this information.

They had not had any problems getting information from other states, she said, except for the fact that they were unable to reciprocate. The memoranda of agreement between gaming agencies specifically provides for reciprocal exchanges of information. She said they could go to court if the other party resists the exchange of the information. She thought the law was broad enough to allow them to get just about any information they requested.
SENATOR BAER asked then if they already had a reciprocal procedure built-in to the process already. **Ms. Baker** said that they did.

CHAIRMAN CRIPPEN asked about Line 25, Page 1, which referred to the disclosure of the information complying with the law of the jurisdiction, he asked if she was talking about the jurisdictions requesting the information? **Ms. Baker** said it was correct. She said that, for example, they would request an agency of the State of Nevada, to let them know that their law allows them to gather the information about the applicant and provide a citation or copy of the relevant authorizing statute. **CHAIRMAN CRIPPEN** asked further, why had they not seen this problem before? **Beth Baker** stated that when the gambling regulation was centralized and sent to the Department of Justice in 1989, there were a lot of concerns about disclosure of proprietary information. As they have come along in the process, both the licensed applicants and the regulators have realized that a free flow of information is helpful to everybody concerned in terms of the licensing process. She said for instance, they could not even comply with a request for a letter of good standing because they cannot disclose that information. The **Chairman** said it would go a lot further. **Ms. Baker** said it would not affect the vast majority of Montana licensees because most of the information that is restricted now pertains to the applicants from outside the state.

Closing by Sponsor:

REPRESENTATIVE EWER closed on HB 173 without further comment.

HEARING ON HB 208

Opening Statement by Sponsor:

REPRESENTATIVE JOHN COBB, Augusta, House District 50, sponsored HB 208. He said the bill would allow certain information relating to civil and criminal sanctions to be made public. The bill deals with gambling violations, 23-5-116 and that whole chapter. What happens presently, he said, is if there was a violation and people were fined, the information could not be given out. All that could be made public is the name and address of the business, ownership and the type of permits requested. The bill was worked on by the Legislative Council, Auditors, and the Department of Justice. The bill would allow that information to be given out upon request. Many thought it was contained within the law presently, but the law seems to imply that the

Department of Justice the 70 per cent of the cases with no assets?
Mr. Woodgerd said that the Department of Revenue would continue to file claims. It would only be when that process required an attorney to go to court that the Department of Justice would become involved. The DOR would continue to review and take care of those cases.

Closing by Sponsor:

REPRESENTATIVE COBB said they were trying to have a pro-active participation in their bankruptcy cases. Right now it is mostly reactive, he said. He stated that other states were like Montana previously, wherein all the little agencies did their own th: .g, then hiring outside counsel when they needed it. When they started doing the work in a centralized unit, they started to realize more money than ever before. As in the Orange County case, he said, someone has to prepare the work for the outside counsel still. It would be much better to have someone who knows bankruptcy. The bill is line-itemed, **REPRESENTATIVE COBB** said, which means if the money is granted in House Bill 2, it cannot be spent for anything else, or move it anywhere else in their budget. It would also terminate in two years. He urged the committee to agree with a pro-active stance, and give it two years to prove it can make a lot more money than they are making now. If it doesn't work, even two attorneys would be hard tc justify, he said.

EXECUTIVE ACTION ON HB 174

Motion/Vote: **SENATOR MIKE HALLIGAN MOVED THAT HB 174 BE CONCURRED IN.** The **MOTION CARRIED UNANIMOUSLY** on an oral vote.

EXECUTIVE ACTION ON HB 175

Motion/Vote: **SENATOR HALLIGAN MOVED THAT HB 175 BE CONCURRED IN.** The **MOTION CARRIED UNANIMOUSLY** on an oral vote.

EXECUTIVE ACTION ON HB 173

Motion: **SENATOR SHARON ESTRADA MOVED THAT HB 173 BE CONCURRED IN.**

Discussion: **SENATOR BAER** said he was concerned about a reciprocal condition of the bill, but he had been assured by **Beth Baker** that it does exist already somehow in the process, although he pointed out the bill did not contain the language. He said he would rely on her integrity to assure that there would be reciprocity of this information with those involved.

Vote: The **MOTION CARRIED UNANIMOUSLY** on an oral vote.

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 2-28-95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
LINDA NELSON	✓		

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SENATE STANDING COMMITTEE REPORT

February 28, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration HB 173 (third reading copy -- blue), respectfully report that HB 173 be concurred in.

Signed: _____
Senator Bruce Crippen, Chair

Amd. Coord.
Sec. of Senate

Grosfield
Senator Carrying Bill

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EXHIBIT NO. 2
DATE 2-24-95
BILL NO. HB 173

DEPARTMENT OF JUSTICE
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--over--

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DATE FEBRUARY 28, 1995

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: HB 135, HB 208, HB 173, HB 174, HB 175

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Check One

Name	Representing	Bill No.	Support	Oppose
Beth Bakes	Dept of Justice	208 173	✓	
Dave Woodgerd	Dept. of Revenue	HB 135	✓	
Bob Gilbert	MT Ass'n Clerks of D. Courts	HB 174	✓	
Mike Voeller	Lee Newspapers of Mont	HB 208	✓	
Charles W. Hyle	MT Newspaper Assn	HB 208	✓	
Denis Casey	GIA	HB 173	✓	
Nancy Sweeney	Lewis & Clark County Clerk of District Court	HB 174	✓	
Patrick A. Chenovick	Montana Supreme Ct	HB 175	✓	
Ellen Engstedt	Don't Gamble With The Future	208 173	✓	
David Hemion	MT Assoc. of Churches	208 173	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

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